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QUESTION OF THE HUMAN RIGHTS OF ALL PERSONS SUBJECTED TO ANY FORM OF DETENTION OR IMPRISONMENT

Written statement submitted by the International Federation of Human Rights, a non-governmental organization in consultative status (category II)

The Secretary-General has received the following communication, which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV).

[28 January 1992]

Arbitrary detention: "placement under protection for investigation" in the People's Republic of China

1. Following missions to China in 1991 by Australian, French and Swiss parliamentarians and jurists, and in the light of the facts they discovered there, the International Federation of Human Rights (FIDH) wishes to draw the attention of the Commission on Human Rights to the measures known as "placement under protection for investigation" applied in the People's Republic of China.

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2. Protection for investigation is governed by a regulation which today is still deliberately kept almost completely secret. A few facts, however, give an indication of its scope. In this connection, the Commission on Human Rights may wish to refer to the annexed "instructions on propaganda regarding protection for investigation", taken from the Xin Zhongguo sifa jieshi daquan (Great Compendium of Legal Commentaries of New China), No. 225 (88), of 14 October 1988, compiled by Liang Guoqing, Zhuongguo Jiancha chubanshe, Beijing, 1990, p. 990.

3. In principle, the public security organs may place any suspect or person whose identity cannot be established under protection for a period of one to two months (extendable to three months with the higher authority's approval). This is not, therefore, an arrest in the strict sense; persons placed under protection are held in special facilities called "centres of protection for investigation" (shourongsuo).

4. According to Ministry of Public Security officials, there is in fact no statutory time-limit for such detention. Any suspect may be held in a centre of this kind so long as his or her identity has not been established or if the investigation so requires. This is a discretionary power enjoyed by the public security organs.

5. A time-limit of three months was introduced under a still confidential regulation of 1985. This was considered too short and restrictive by many public security officials and was reportedly lifted or suspended after 4 June 1989. The fact is that many victims of the repression which occurred thereafter were placed in such centres without trial. Some were released several months later, others were formally arrested and brought before the courts after periods of "protection" varying greatly from one case to another, and some are allegedly still being held in such centres.

6. The number of centres and persons held in them has not been divulged. There is a shourongsuo in every large or medium-sized town. Concording sources estimate the number of detainees at several hundred thousand and the number of centres at about 640.

7. The International Federation of Human Rights brings this matter before the Commission on Human Rights with a view to the investigation, under the relevant procedures, of a measure that is contrary to the right to liberty and security of person. It furthermore requests the Chinese authorities to inform the Commission on Human Rights of the specific steps they intend to take to comply with international standards.

Annex

MINISTRY OF PUBLIC SECURITY

Reply to the request for "instructions on propaganda regarding protection for investigation"

14 October 1988 No. 225 (88)

The office of public security of Zuhang autonomous region in Guangxi has noted your request for instructions (1988), No. 200, and, after consideration, submits the following reply:

1. Propaganda regarding protection for investigation must be conducted henceforth in the spirit of document No. 5 (laws and regulations) concerning public security (87) of the Ministry of Public Security. This document states that "no public reporting on persons placed under protection for investigation is allowed before final judgement of their case" and that "when the public security organs inform press units about the punishment of criminals, they must not discuss protection for investigation and must tell the press units not to publish information on such protection". This chiefly concerns cases or persons that may not be publicly reported on as matters specifically involving "protection for investigation". Some press accounts use this term erroneously when describing other measures taken by the public security organs such as penal detention (xingshi juliu), rehabilitation through labour or detention for breach of public security (zhi'an juliu). This must be explained clearly to the organs of the press so that they avoid repeating such errors.

2. In particular cases where it proves necessary to report publicly on a current procedure involving the placement of an individual under protection for investigation, reports must avoid using the words "protection for investigation" and should, instead, state in general terms that the public security organs "are at present conducting an investigation" (zhenhai jinxing shencha).

3. Protection for investigation is a coercive administrative measure of investigation employed by the public security organs in a set number of cases; although no laws have as yet been formally established regarding this matter, protection for investigation is based on regulations of the State Council and Ministry of Public Security and already constitutes a legal practice having a valid objective existence. Thus, when legal circles publish academic papers or commentaries on, or undertake legal expositions of, "protection for investigation", they are required merely to refrain from reporting on particular cases or persons; in general, there is no need for supervision or additional censorship. The article entitled "Placement under protection for investigation and penal detention", which appeared in the "Legal Knowledge" column of issue No. 229 of Guangxi fazhibao (Guangxi Law Journal), belongs in the category of expository articles on the law. The dispute with that journal may therefore be regarded as at an end; no further investigation is necessary.

4. Henceforth, when the press or book publishers print accounts or articles contrary to the spirit of document No. 5 (laws and regulations) on public security (87) of the Ministry of Public Security, every effort must be made to explain the situation to the departments concerned, to gain their understanding and support and encourage them to make sure that their errors are rectified in future. In the event of disagreement, the parties may apply to the propaganda department of the local Party committee of the local government to have the problem resolved in a harmonious manner.

5. It should be noted that pending formal legislation on measures of protection for investigation, members of the public security organs and police must under no circumstances write articles or issue reports, on behalf of their unit or in their own name, on protection for investigation for radio, television, public newspapers or magazines; nor must they inform the press about the situation in that regard. The units and persons concerned are requested conscientiously to watch out for and remedy any breach of these rules.